

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

GEORGE JACOBS WANKMUELLER
Plaintiff,

v.

CON-WAY TRUCKLOAD, INC. and
WILLIS MICHAEL PETERS a/k/a
WILLIAM MICHAEL PETERS,
Defendants.

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CIVIL ACTION NO. 6:16-cv-389

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, CON-WAY TRUCKLOAD, INC., Defendant in the above-entitled and numbered civil action (hereinafter referred to as "Defendant"), and would respectfully show the Court as follows:

1. Defendant is a party in the above-entitled action now pending in the 146th Judicial District Court of Bell County, Texas, Cause No. 287,365-B.

2. George Jacobs Wankmueller (hereinafter "Plaintiff") filed his Original Petition on September 2, 2016. Defendant Con-Way Truckload, Inc. was served with process in this matter on or about September 12, 2016. Defendant Willis Michael Peters has not been served at this time. This Notice of Removal is filed within thirty (30) days of Defendant's receipt of the Petition and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

3. Removal of this action is proper under 28 U.S.C. §§ 1332(a) and 1441(a) because complete diversity of citizenship exists as among the named and served parties and because the amount in controversy exceeds \$75,000.00.

4. In Plaintiff's Original Petition, Plaintiff George Jacobs Wankmueller, who is a citizen and resident of the State of Texas, alleges that on or about September 17, 2014, he was

involved in a motor vehicle collision by a truck owned by Defendant Con-Way Truckload, Inc., a corporation with its principal place of business in the State of Missouri. On September 2, 2016, Plaintiff filed suit against the Defendants bringing state law tort claims for negligence and various liability, alleging damages in excess of \$1,000,000.00.

5. At the time Plaintiff filed his state court action, Defendant Con-Way Truckload, Inc. had its principal place of business in the State of Missouri. Likewise, at the time of the filing of this Notice of Removal, Con-Way Truckload, Inc. continues to maintain its principal place of business in the State of Missouri.

7. The District Courts of the United States have diversity jurisdiction when there is complete diversity among the joined and served parties and when the amount of controversy exceeds \$75,000. 28 U.S.C. § 1332. Because there is complete diversity of citizenship, and the amount in controversy exceeds \$75,000.00, this case may properly be removed to this Court pursuant to 28 U.S.C. § 1441(a).

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders filed in the state court are attached hereto as Exhibit “A.”

9. This matter involves an amount in controversy exceeding \$75,000.

10. Pursuant to 28 U.S.C. § 1446(d), Defendant has given written notice of filing of this Notice of Removal to Plaintiff, and is filing a copy of this Notice of Removal with the Clerk of the 350th Judicial District Court of Taylor County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant Con-Way Truckload, Inc. prays that the above-mentioned civil action now pending against Defendants in the 146th Judicial District Court of Bell County, Texas be removed to the United States District Court for the Western District of Texas, Waco Division.

Respectfully submitted,

/s/ D. Randall Montgomery

D. RANDALL MONTGOMERY

State Bar No. 14289700

Rmontgomery@drmlawyers.com

ASHLEY A. SMITH

State Bar No. 24049385

asmith@drmlawyers.com

**D. RANDALL MONTGOMERY
& ASSOCIATES, P.L.L.C.**

12400 Coit Road, Suite 560

Dallas, Texas 75251

(214) 292-2600

(469) 568-9323 (Facsimile)

**ATTORNEYS FOR DEFENDANT
CON-WAY TRUCKLOAD, INC.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument has been served upon all attorneys of record in accordance with the Federal Rules of Civil Procedure on this the 28th day of September, 2016.

VIA E-FILE AND

CMRRR 9214 7969 0099 9790 1610 5822 83

Jay R. Beatty

Michalk, Beatty & Alcozer, L.P.

3106 South W.S. Young Drive

Building D, Suite 401

Killeen, Texas 76542

/s/ D. Randall Montgomery

D. RANDALL MONTGOMERY